IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO.21406 of 2004

Between:

D. Durgamma, W/o. P. Dhanavan,
R/o. Suryapet, Nalgonda District.

..... PETITIONER

AND

1 The Managing Director, A.P.S.R.T.C, Musheerabad, Hyderabad.
2 The Depot Manager, A.P.S.R.T.C., Suryapet, Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus directing the respondents to consider for reappointment of the petitioner by directing the respondents to refer the petitioner to Medical Board for re-examination in view of the changed health conditions of the petitioner.

Counsel for the Petitioner: MR. VENUGOPALA RAO PASNOORU

Counsel for the Respondent Nos.1 and 2: MR.V.T.M.PRASAD (S.C.FOR APSRTC)

The Court at the admission stage made the following Order :

THE HON'BLE SRI JUSTICE K.C.BHANU

WRIT PETITION NO.21406 OF 2004

ORDER:

-

This writ petition is filed seeking a Writ of Mandamus directing the respondents to consider the petitioner for reappointment by referring her to Medical Board for reexamination.

The petitioner was appointed as a Sweeper in 1974 on temporary basis in the second respondent-Corporation and her services were regularized with effect from 22.06.1975. In the month of October, 2003, since the petitioner was suffering with serious ailments, she was referred to Senior Medical Officer of the respondent-Corporation. Basing on the opinion of the Medical Officer, the respondent-Corporation ordered to retire the petitioner on medical grounds with effect from 07.11.2003. The petitioner after obtaining necessary treatment at NIMS, Hyderabad, made a representation dated 18.05.2004 to the second respondent praying to send her for medical examination afresh. The second respondent rejected her representation on the premise that there is no provision to redirect the petitioner for re-medical examination as per the circular No.PD-5/2004, dated 09.02.2004. Challenging the same, the present writ petition is filed.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

The facts of the case are not in dispute.

The only question that has to be considered is as to whether the petitioner is medically fit or not has to be decided by the authorities of the respondent-Corporation.

Admittedly, the petitioner was not treated by the respondent Hospital and that she was treated at NIMS, Hyderabad. Undisputedly, an appeal lies against the order of the second respondent. The petitioner without exhausting the remedy of appeal had approached this Court by filing the present writ petition. In the aforementioned circumstances, I deem it appropriate to dispose of the writ petition giving liberty to the petitioner to file an appeal before appropriate authority within a period of one week from the date of receipt of a copy of this order. However, it is made clear that if there is any limitation aspect, petitioner is at liberty to file an application to that effect. On such application being filed, the appellate authority shall consider and dispose of the same sympathetically.

The Writ Petition is accordingly disposed of. No costs.

23.11.2004

Note:CC in two days

bo

usd

To

1 The Managing Director, A.P.S.R.T.C, Musheerabad, Hyderabad.
2 The Depot Manager, A.P.S.R.T.C., Suryapet, Nalgonda District.

3 Two CD copies